

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	
ARNULFO MALDONADO et al., on behalf of	:	
themselves and all others similarly situated,	:	
Plaintiffs,	:	
	:	
-against-	:	20 Civ. 6850 (LGS)
	:	
THEMIOS PAPADOPOULOS and	:	<u>ORDER</u>
TAVERNA KYCLADES, INC. (D/B/A	:	
TAVERNA KYCLADES),	:	
Defendants.	:	
	:	
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LORNA G. SCHOFIELD, District Judge:

WHEREAS, on February 4, 2021, the Clerk of Court entered Certificates of Default as to Defendants (Dkt Nos. 31, 32).

WHEREAS, on April 1, 2021, the matter was referred to Magistrate Judge Katharine H. Parker for an inquest on damages (Dkt. No. 49).

WHEREAS, on July 17, 2021, Judge Parker issued a Report and Recommendation (the “Report”) recommending that a default judgment be entered in Plaintiffs’ favor and that each individual Plaintiff be awarded the following amounts -- comprised of unpaid overtime wages, spread of hours wages, liquidated damages, prejudgment interest and statutory damages -- for violations of the Fair Labor Standards Act (“FLSA”) (29 U.S.C. § 201 *et seq.*) and the New York Labor Law (“NYLL”) (§§ 190 *et seq.* and 650 *et seq.*): \$146,582.94 for Arnulfo Maldonado, \$70,711.24 for Jorge Levya Cabrera and \$61,114.91 for Domingo Juarez. The Report also recommends an award of post-judgment interest, to be calculated using the federal rate set forth in 28 U.S.C. § 1961 from the date the Clerk of Court enters judgment in this action until the date

of payment, and an award of Plaintiffs' attorneys' fees and costs in the amount of \$6,590 and \$905.60, respectively.

WHEREAS, the Report states that the Defendants "shall have seventeen days from the service of this Report and Recommendation to file written objections" and Plaintiffs "shall have fourteen days from the service of this Report and Recommendation to file written objections."

WHEREAS, Plaintiffs' Certificate of Service at Dkt. No. 56 confirms the Defendants were served on August 10, 2021, by First Class Mail.

WHEREAS, no objections were timely filed and Defendants did not appear at any point in the damages inquest proceedings.

WHEREAS, in reviewing a Report and Recommendation of a magistrate judge, a district judge "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "In a case such as this one, where no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." *Flinton v. Saul*, No. 19 Civ. 2054, 2020 WL 5634321, at *1 (S.D.N.Y. Sept. 21, 2020) (quoting *Jones v. Berryhill*, No. 18 Civ. 11233, 2020 WL 1503507, at *1 (S.D.N.Y. Mar. 30, 2020)).

WHEREAS, the Court finds the Report to be thorough, well-reasoned, and not "clearly erroneous," except for a few minor computational errors. It is hereby

ORDERED that the Report is **adopted in part** and **adopted as modified in part** as follows:

- Plaintiff Maldonado's award for overtime compensation is recalculated due to computational error for the time period between September 1, 2014 and December 31, 2014. The modified total for that period is \$2,451, and Maldonado's total

overtime compensation is modified to \$46,146.50.

- Plaintiff Juarez is not entitled to an award for unlawfully deducted wages over the period from March 16, 2020, to May 15, 2020, during which he was not employed by Defendants. The amount of unlawfully deducted wages for the periods between May 1, 2016 and March 15, 2020, and May 16, 2020 and August 12, 2020, is modified to \$4,721.20.
- Plaintiff Maldonado's award for spread of hours pay is recalculated using the appropriate New York minimum wage rates set out on page 7, note 2 of the Report. The modified total is \$6,507.20.
- Plaintiff Juarez's pre-judgment interest is modified to \$5,314.68.

It is further

ORDERED that the following portions of the Report are modified based on the revised calculations described above:

- The total unpaid wages (comprising unpaid overtime, minimum wage, improper deductions and spread of hours) are \$59,024.90 for Maldonado, and \$22,714.70 for Juarez.
- The amount of pre-judgment interest owed to Maldonado for spread-of-hours pay is \$2,347.20.

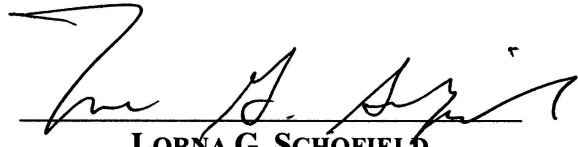
It is further

ORDERED that Plaintiff Juarez is awarded \$60,744.08, plus \$4.44 per day in pre-judgment interest from July 16, 2021, until the date of the judgment; Plaintiff Maldonado is awarded \$147,091.46, plus \$12.98 per day in pre-judgment interest from July 16, 2021, until the date of the judgment; and Plaintiff Cabrera is awarded \$70,711.24, plus \$4.92 per day in pre-

judgment interest from July 16, 2021, until the date of the judgment. The Plaintiffs are awarded post-judgment interest, to be calculated from the date the Clerk of Court enters judgment in this action, using the federal rate set forth in 28 U.S.C. § 1961. The Plaintiffs jointly are awarded attorneys' fees and costs in the amounts of \$6,590 and \$905.60, respectively. It is further

ORDERED that Default Judgment against Defendants is entered. The Clerk of Court is respectfully directed to enter judgment and close this case.

Dated: October 6, 2021
New York, New York

A handwritten signature in black ink, appearing to read "Lorna G. Schofield", is written over a horizontal line.

LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE